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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,943

03/23/2006

Julian De La Azuela

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EXAMINER

LITHGOW, THOMAS M

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

02/06/2008

: PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,943

Applicant(s)

DE LA AZUELA ET AL.

Examiner

Thomas M. Lithgow

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 18-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 29 June 2005.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

THOMAS M. LITHGOW
PRIMARY EXAMINER
GROUP 1700

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of the claims recite a "fuel filter" yet no such filter appears in the body of the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 18-20, 31-32 and 36-37 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 61-234909. JP '909 discloses a "fuel filter" having the recited control means 21-25 (see fig. 3), a filter 4, inlet 2, outlet

3, and sump 6. The filter 4 is a coalescing filter which allows both fuel and water to pass while coalescing the dispersed water phase. Therefore the sump can be considered to be on the clean side (same side as purified fuel) or on the dirty side (same side as the contaminant water).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '909 as applied to claim 18 above, and further in view of Tiemeyer (US 5366520). JP '909 discloses the use of a filter 7 in the sump to remove any residual fuel from the water to be discharged via the water outlet 12a. Tiemeyer '520 discloses the use of an activated carbon filter to remove a liquid fuel from the water which passes the activated carbon and being generally free of the original liquid fuel which is retained by the activated carbon filter [col. 1, lines 43-50]. As this is the intended function of the filter 7 already present in the sump of JP '909, it would have

been obvious to one of ordinary skill to substitute one equivalent functional filter for another.

7. Claims 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '909 as applied to claim 18 above, and further in view of Harenbrock (PGP 2003/0121860). Harenbrock '860 discloses the use of a unit 16 in which water is retained and then evaporated.

8. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '909 as applied to claim 18 above, and further in view of Hall (US 4334989). Hall '989 similarly discloses a unit 72 which retains discharged water from a filter unit and allows evaporation to occur to remove the water.

9. Claims 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '909 in view of Hall '989 as applied to claim 24 or 25 above, and further in view of Maxwell (US 6444121). The use of specific adsorbents or other material in the capturing of water drained from a fuel filter is taught by Maxwell '121 - see col. 3, lines 53+. To employ these materials to assist in capturing the water in the prior art water discharge devices would have been obvious to one of ordinary skill in the art.

10. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '909 as applied to claim 18 above, and further in view of Tarr (US 5534161). The use of a pump to remove the water drained from a fuel filter is taught by Tarr '161- see pump 24 [col. 3, lines 23-27]. To employ a water removing pump for its intended purpose in the JP '909 device would have been obvious to one of ordinary skill in the art.

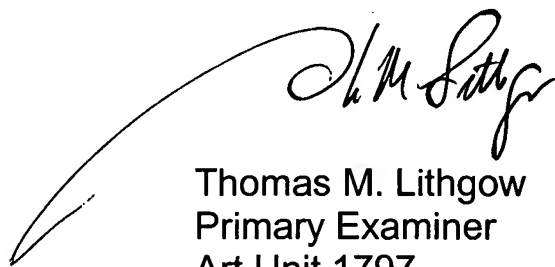
11. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP '909 as applied to claim 18 above, and further in view of any one of Gough (US 3868321) or McVay (US 3508658) or Muller (US 3685655). The use of a float actuated valve discharge to remove water from the sump of a fuel filter is well known and taught by any one of the above three patents. To employ such float regulated valves for their intended purpose would have been obvious to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas M. Lithgow
Primary Examiner
Art Unit 1797

TML